

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

FREDERICK BANKS,
REG. #05711-068

PLAINTIFF

V.

4:12CV00183 JLH/JTR

HILARY RODHAM CLINTON, et al.

DEFENDANTS

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

INSTRUCTIONS

The following recommended disposition has been sent to United States Chief District Judge J. Leon Holmes. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the

United States District Judge, you must, at the same time that you file your written objections, include a “Statement of Necessity” that sets forth the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the requested hearing before the United States District Judge was not offered at the hearing before the Magistrate Judge.
3. An offer of proof setting forth the details of any testimony or other evidence (including copies of any documents) desired to be introduced at the requested hearing before the United States District Judge.

From this submission, the United States District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

I. Introduction

Plaintiff, Frederick Banks, is a prisoner in the Federal Correctional Institution located in Forrest City, Arkansas. He has recently filed a Motion to Alter or Amend

Judgment.¹ *See* docket entry #12. For the following reasons, the Court recommends that the Motion be denied.

II. Discussion

On March 20, 2012, Plaintiff filed a *pro se* lawsuit in the United States District Court for the Middle District of Pennsylvania. *See Banks v. Clinton*; 1:12CV00496 CCC/EC (docket entry #2). Venue for that case was proper in the Eastern District of Arkansas. *Id.* (docket entry #5). Thus, on March 23, 2012, the Middle District of Pennsylvania transferred the case to this Court.

On March 28, 2012, this Court dismissed Plaintiff's case, without prejudice, pursuant to the three strikes rule found in 28 U.S.C. § 1915(g). *See* docket entries #9 and #10.

On April 6, 2012, Plaintiff filed the current Motion to Alter or Amend Judgment. *See* docket entry #12. Plaintiff argues that this Court did not have jurisdiction to dismiss his case because, on March 28, 2012, he had an appeal of the March 23, 2012 Transfer Order pending before the Third Circuit Court of Appeals. *Id.*

Contrary to Plaintiff's assertion, there is no record of Plaintiff filing any such

¹ On April 9, 2012, the Motion was referred to the undersigned for recommendation. *See* docket entry #15.

appeal in either the United States District Court for the Middle District of Pennsylvania or the Third Circuit Court of Appeals. More importantly, it is well settled that the transferring court loses jurisdiction when a case is transferred to another court. *In re Nine Mile Limited*, 673 F.2d 242, 244 (8th Cir. 1982). Thus, the Middle District of Pennsylvania lost jurisdiction over this case on March 23, 2012. Consequently, this Court had jurisdiction when it dismissed Plaintiff's case on March 28, 2012. Accordingly, Plaintiff's Motion to Alter or Amend Judgment should be denied.

III. Conclusion

IT IS THEREFORE RECOMMENDED THAT:

1. Plaintiff's Motion to Alter or Amend Judgment (docket entry #12) be DENIED.
2. The Court CERTIFY, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal would not be taken in good faith.

Dated this 17th day of April, 2012.


UNITED STATES MAGISTRATE JUDGE